

00288

1 culverts that you believe have affected anadromous fish
2 populations in the Skagit watershed?

3 A When you say "affected populations," you would mean that it made
4 more fish?

5 Q I am quoting from the tribal attorneys' description of what you
6 would testify about. So -- "selected culverts whose repair or
7 replacement has affected or could affect anadromous fish
8 populations."

9 Do you have an understanding of what that means
10 regarding the scope of your testimony?

11 A Yes, I believe I do.

12 Q What is that understanding?

13 A Well, I believe that I may be asked to describe specific
14 examples of culverts that either could be repaired to increase
15 fish populations or at least increase production from habitat
16 that has been blocked; or increase fish passage into or out of
17 habitats that have been blocked. And also culverts that
18 specifically have been fixed and have allowed for fish passage
19 and resulting fish production.

20 Q Are you able today to identify those specific culverts that
21 could affect anadromous fish populations and where repair might
22 increase the population?

23 A Yes. I'm not sure that I would be able to identify each and
24 every one, but I certainly can identify some examples.

25 Q Okay. Could you do that, please.

1 A Well, I believe that the suite of cul -- you would be looking at
2 culverts that could be repaired to provide fish passage,
3 correct? These are ones that are, to my knowledge, not
4 currently repaired.

5 Q Okay.

6 A I would think that these suite of culverts at Wiley Slough would
7 be a good example, although those are, again, listed as unknowns
8 in the barrier protocol.

9 There's -- let's see, there are a number of
10 culverts on tributaries to Nookachamps Creek. I would have to
11 go into my notes to get those exactly.

12 The other is a culvert on Sutter Creek on
13 Highway 20. That is a barrier.

14 And I think there are many more examples, but I
15 would probably leave that there. I haven't really exhaustively
16 gone through the inventory to identify individual culverts at
17 this time.

18 Q Is that something you expect to do before the trial in this
19 case?

20 A I believe that I may have occasion to review some of my old
21 notes.

22 Q Would you expect to actually go out and look at the culverts?

23 A I may. I'm not sure.

24 Q With respect to those culverts on Nookachamps Creek --

25 A They're tributaries, a number of tributaries to Nookachamps

1 Creek, some of which are named; some of which are unnamed.

2 Q Are those all state-owned culverts?

3 A There are some state-owned ones. And there are some non
4 state-owned ones. I presume that for the purposes of this case
5 we would be looking at state-owned, but I don't know.

6 Q Do you think of these culverts altogether, though? Is it -- is
7 it one big suite of culverts on these tributaries to Nookachamps
8 Creek? Is that how you view the problems? That's how you, I
9 thought, described it.

10 A It's both a -- how do I view the problem? I guess I view the
11 problem of fish passage as something that affects watersheds
12 broadly. There are problems -- there are certain problems that
13 can be fixed on an individual basis, and other problems that
14 really need to be treated collectively.

15 Q Does it make sense to you to fix just the state culverts without
16 fixing the others?

17 A It makes sense to me to fix any of the culverts that are
18 problems.

19 Q Why is that? If you've got -- well, let's use an example. If
20 you've got a blocking culvert near the mouth of the stream
21 that's not state owned, and then you've got some other blocking
22 culverts upstream that are state owned, why does it make sense
23 to fix the state-owned culverts when they're not fixing the one
24 that's not state owned?

25 A Well, it could make sense because -- it could make sense for a

C E R T I F I C A T E

STATE OF WASHINGTON)
) SS
COUNTY OF KING)

I, Katherine Cullman, a Notary Public in and for the State of Washington, do hereby certify:

That the foregoing deposition was taken before me at the time and place therein set forth;

That the witness was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth; and the testimony of the witness and all objections made at the time of the examination were recorded by voice recognition by me, and thereafter transcribed under my direction;

That the foregoing transcript is a true record of the testimony given by the witness and of all objections made at the time of the examination, to the best of my ability.

I further certify that I am in no way related to any party to this matter nor to any of counsel, nor do I have any interest in the matter.

Witness my hand and seal this 27th day of July, 2006.

Katherine Cullman, Notary
Public in and for the State
of Washington, residing at
Kent. Commission
expires April 26, 2008.